



Berkeley County Sheriff's Office

Sheriff Curtis E. Keller

510 S. Raleigh Street, Martinsburg, WV 25401

Phone: (304) 267-7000

Fax: (304) 267-7118



December 6, 2018

Re: November 19th Incident with 16yr old

Dear Mr. Brad McElhinny:

Thank you for your Freedom of Information Act Request, dated the 3rd day of December 2018, which was received by this office on the 6th day of December 2018.

Unfortunately, we must deny your request because the incident in which you are inquiring about is still an active case with ongoing investigation.

Let this serve as our department's response to your Freedom of Information Act Request within the specified timeframe allowed.

Sincerely,
Lorie Kackley
Records Clerk

County Council of Berkeley County

NORWOOD BENTLEY
LEGAL DIRECTOR



400 W. STEPHEN STREET, SUITE 201A
MARTINSBURG, WV 25401
PHONE: (304) 267-5009
FAX: (304) 267-5049

December 4, 2018

David A. Barnette, Esquire
Jackson Kelly PLLC
Post Office Box 553
Charleston, West Virginia 25322

VIA ELECTRONIC MAIL:
dbarnette@jacksonkelly.com and
UNITED STATES MAIL

Dear David:

Thank you for alerting me to the FOIA response to your client from Sheriff Keller in Berkeley County. The Request, from Brad McElhinny, will be honored as legitimate despite the Sheriff's Office having indicated to your client that they would not honor it in the form of electronic mail.

Mr. McElhinny requested any video recording representing a November 19, 2018, altercation among police and a 16-year-old whom the police were attempting to apprehend.

The dash camera video that does exist pertaining to the incident on November 19, 2018, is from Berkeley County Sheriff's Office cruisers. Pursuant to West Virginia Code § 29B-1-4, the video is exempted from disclosure, at this time, because it is a record which deals with the investigation and detection of an alleged crime which was compiled as part on the inquiry into the suspected violations of the law. It is part of an on-going investigation of those allegations, the premature disclosure of which would compromise the criminal and administrative investigations.

The video will be released upon the Prosecuting Attorney's determination that the investigation is complete.

The Berkeley County Sheriff will assure the video's release to your client as soon as the Prosecuting Attorney makes that determination.

Very truly yours,

A handwritten signature in blue ink that reads "Norwood Bentley III".

Norwood Bentley III

cc: The Honorable Catie Wilkes Delligatti, Prosecuting Attorney
The Honorable Curtis Keller, Sheriff

Brad McElhinny
West Virginia MetroNews
1111 Virginia Street E.
Charleston, W.Va. 25311

Dec. 3, 2018

2018 DEC -6 A 10:09
SHERIFF CURTIS E. KELLER
BERKELEY COUNTY
SHERIFF'S DEPARTMENT

Berkeley County Sheriff Curtis Keller
Berkeley County Sheriff's Office
510 South Raleigh Street
Martinsburg, WV 25401

Dear Sheriff Keller:

Under the West Virginia Freedom of Information Act, §29-B-1-1 et seq., I am requesting an opportunity to inspect or obtain copies of public records that represent video of a Nov. 19 altercation among police and a 16-year-old who was being apprehended. My understanding is this video originated from a camera in a Berkeley County Sheriff's cruiser. I also request internal communications about the video and its distribution.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$25. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of an altercation that led to the suspension of two troopers and a deputy. This information is not being sought for commercial purposes.

The West Virginia Freedom of Information Act requires a response to this request be made within five business days. If access to the records I am requesting will take longer than this amount of time, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

My preference is to receive the requested information in digital format, delivered to brad.mcelhinny@wvmetronews.com.

Brad McElhinny

West Virginia MetroNews

1111 Virginia Street E.

Charleston, W.Va. 25311

Dec. 3, 2018

2018 DEC -6 A 10:09

SHERIFF CURTIS E. KELLER
BERKELEY COUNTY
SHERIFF'S DEPARTMENT

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510 South Raleigh Street
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Thank you for considering my request.

Sincerely,

Brad McElhinny